

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Claim for Public
Safety Officers' Benefits for Michael
Waldoch (Deceased)

**ORDER DENYING MOTION
TO LIMIT SCOPE OF HEARING**

This matter is before Administrative Law Judge (ALJ) Richard C. Luis on a Motion by the Department of Public Safety (Department) to limit the scope of the hearing in this matter. The Department and the family of Michael Waldoch (deceased) have filed Memoranda and Reply Memoranda. The Department is represented by David L. Ramp, Assistant Attorney General, 525 Park Street, Suite 500, St. Paul, Minnesota 55103-2122. The family of Michael Waldoch (deceased) is represented by Thomas D. Mottaz, 2150 Third Avenue North, Suite 220, Anoka, Minnesota 55303.

Based on all the filings and proceedings herein, and for the reasons noted below in the Memorandum, the Administrative Law Judge makes the following:

ORDER

IT IS ORDERED that the Department's Motion to Limit the Scope of the Hearing in this matter is DENIED. Accordingly, the Administrative Law Judge will contact counsel to set a procedural schedule in this case.

Dated this _____ day of August 2002.

/s/ Richard C. Luis

RICHARD C. LUIS

Administrative Law Judge

MEMORANDUM

As noted by counsel for the family of Michael Waldoch, to grant the Department's Motion is tantamount to granting summary judgment in this matter because its effect would be to make the family-survivors of Officer Waldoch ineligible for the benefits in question.

The benefits are available to a public safety officer's family for an officer "killed in the line of duty" within the meaning of Minn. Stat. § 299A.41, subd. 3. The Department maintains that the facts surrounding Waldoch's death on June 5, 2000 make the survivors ineligible for the statutory award. The survivors argue otherwise, maintaining that they should be allowed to prove that Waldoch died as a result of injuries sustained in the line of duty as a police officer for the City of St. Peter.

Michael Waldoch was a patrol officer in St. Peter. He finished his last shift at 3:00 a.m. on Friday, June 2, 2000. On Saturday afternoon, June 3, while performing "aggressive" yard work at his home, Waldoch experienced chest and gastric pain severe enough to cause him to check into the Le Sueur Hospital. After several hours of observation, he was sent home with instructions to take pain medication. After a restless Saturday night and Sunday, Waldoch returned to the hospital on Sunday evening. He died of heart failure early Monday morning.

The Department argues that Waldoch is ineligible for benefits because he did not suffer the heart episode that killed him until he had been off the job nearly 36 hours. The Administrative Law Judge does not agree that this fact alone disqualifies his survivors from benefits. The survivors should be allowed to attempt to prove that Michael Waldoch died from a heart condition sustained while he was working on the job as a police officer, performing patrol duties.

Minnesota case law seems to support the position of the survivors. In Ondler v. Peace Officer Benefit Fund, 289 N.W.2d 486 (Minn. 1980) it was established that there was no rational basis to exclude peace officers who are killed by heart attacks while in the line of duty from eligibility for these benefits. In Johnson v. City of Plainview, 431 N.W.2d 109 (Minn. 1988) the Supreme Court stated:

"Given that the Fund was established to recognize the sacrifices made by peace officers in performing the hazardous work in protection of the public, any death which results in part from the performance of such work, should qualify for Fund benefits." 431 N.W.2d at 115.

While the family does not dispute that Officer Waldoch's heart attack occurred while he was off duty, they maintain they should be allowed to establish that his death was caused by underlying coronary heart disease, which disease was caused by his duties as a police patrol officer. A temporal relationship between the event of the death and actual work activity is not controlling. The Supreme Court's reasoning in a case ultimately denying benefits to a claimant, Kramer v. State Peace Officer's Benefit Fund, 380 N.W.2d 497 (Minn. 1986) is instructive. In Kramer, the officer actually died from a heart attack, while at home, one and one-half years after he had retired from the St. Paul Police. The Court did not, however, find the timing of Officer Kramer's heart attack to be controlling. It interpreted the phrase "killed in the line of duty" as death resulting from the performance of duties peculiar to a peace officer that exposed the officer to the hazard of being killed. 380 N.W.2d at 501. Given that the Supreme Court's focus in Kramer was on whether there were duties performed by the police officer which were peculiar to peace officers' work (benefits were denied because Officer Kramer had an office job), and given that Officer Waldoch performed hazardous duties peculiar to peace officers, his family should be allowed to prove whether those duties caused the coronary artery disease that led to his death.

The Administrative Law Judge is persuaded by counsel's argument that the risks for police officers and fire fighters in developing coronary artery disease make the disease presumptively work-related. It is noted that a majority of jurisdictions have recognized that coronary artery disease is a hazard of employment for police and firefighters, establishing similar "presumptions" in their law. Larson, Law of Workmen's Compensation, § 52.7(2)(a).

The Waldoch family should be able to establish that multiple stresses over the course of time resulted in the coronary artery disease which killed Officer Waldoch. If they can substantiate such facts, the Administrative Law Judge is persuaded that the criteria of the statutory language "killed in the line of duty" will be met. It must be determined through the

hearing process whether hazardous activity existed in Officer Waldoch's job and affected him in such a way that it resulted in his death. In that connection, it is noted that his physician has filed an opinion that states "...with assurance that Mr. Waldoch's coronary artery disease which resulted in his death on June 5 was occupation related in that the duties of a police officer for the city of St. Peter and the stresses inherent with that were the main causative factor in his illness and death".

Summary judgment is appropriate only when there is no genuine issue of material fact in dispute and where a determination of the applicable law will resolve the controversy. In the context of a summary judgment motion, the non-moving party has the benefit of the view of the evidence most favorable to it and all doubts and factual inferences must be resolved against the moving party. Clemas v. Northern State Enterprises, Inc., 361 N.W.2d 149, 152 (Minn. App. 1985). Summary judgment would be inappropriate here because the Waldoch family is ready to present factual support for meeting the specific requirements established to prove Michael Waldoch was "killed in the line of duty" within the meaning of the eligibility statute. The Waldoch evidence allegedly will show that the claimant was exposed to, and participated in numerous life-and-death occurrences while performing his duties as an officer for the City of St. Peter. The family also will attempt to establish that Waldoch developed a significant mental health disorder, called "panic attacks", which caused him significant stress, and that the severity of that condition markedly increased in the year preceding his death to the point where, in fact, he was taken off work in August 1999. The Petitioner should be allowed to substantiate that the panic attacks are medically considered a risk factor for the development of chronic artery disease, a condition caused by hazardous work experiences.

The Department's argument that the essential element for eligibility is the performance of hazardous duty in proximity to the heart attack that caused Officer Waldoch's death is misplaced. As noted, the court in Kramer could simply have dismissed the case if that were a controlling criterion because Kramer died several years after retiring from the police force, a situation where his death clearly was not in close proximity to any hazardous duty. The Supreme Court in Kramer focused on whether the peace officer performed hazardous work, and in particular whether that hazardous work resulted in death. Because Officer Kramer was involved in an administrative capacity within the police department and because the heart attack he did suffer on duty occurred while he was going down steps in the performance of work that was not "hazardous", the Court decided that Kramer's circumstances did not fit the statute.

The majority of reported cases involve circumstances where the heart attacks occurred at the time of hazardous duty. However, the ALJ agrees with counsel for the Waldochs, that the case law does not support the fact that the heart attacks had to have occurred at the time of hazardous duty. Rather, the criteria is whether (1) the decedent performed hazardous duty and (2) whether the hazardous duty caused the death.

In this case, the Waldochs will attempt to provide factual evidence to support that Michael Waldoch was involved in extensive hazardous duty, from which he developed a medical condition, which medical condition resulted in his death. They should be allowed to attempt to establish that evidence.

R.C.L.